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8                   **UNITED STATES DISTRICT COURT**  
9                   **DISTRICT OF NEVADA**

10  
11 NICOLE MUFFIE,

12                 Plaintiff(s),

13                 v.

14 LUNAN WEST, INC.,

15                 Defendant(s).

Case No.: 2:18-cv-02089-APG-VCF

**Order**

16                 Pursuant to the Court's Early Neutral Evaluation ("ENE") Program as outlined in Local  
17 Rule 16-6, an ENE session is hereby scheduled to commence **March 7, 2019 at 9:30 a.m.** in the  
18 chambers of the undersigned magistrate judge on the fourth floor of the Lloyd D. George United  
19 States Courthouse, 333 Las Vegas Boulevard South, Las Vegas, Nevada.<sup>1</sup>

20                 The following individual(s) are **required to be present in person for the duration of the**  
21 **ENE session:**

22                 1. All counsel of record who will be participating in the trial;  
23                 2. All parties appearing *pro se*;  
24                 3. All individual parties;

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<sup>1</sup> Any request to change the date of the ENE must be made in writing and must be filed  
27 within 14 days of the issuance of this order. Such requests must include at least 5 alternative dates  
28 on which all required participants are available to attend the ENE. The parties shall meet and  
confer on such dates prior to the filing of the request. If the request is not filed as a stipulation,  
any response shall be filed 3 days after service of the request.

4. In the case of non-individual parties, an officer or representative with binding authority to settle this matter up to the full amount of the claim; and
5. If any party is subject to coverage by an insurance carrier, then a representative of the insurance carrier with authority to settle this matter up to the full amount of the claim.<sup>2</sup>

**Any request for an exception to the above attendance requirements must be filed and served on all parties within 14 days of the issuance of this order. If the request is not filed as a stipulation, any response shall be filed 3 days after service of the request. Requests for an exception must be supported by a compelling justification for an exception. All trial counsel, individual parties, a fully-authorized representative, and a fully-authorized insurance representative shall appear in person unless the court enters an order granting a request for exception.**

## **PREPARATION FOR ENE SESSION**

In preparation for the ENE session, the attorneys for each party, and the parties appearing *pro se*, if any, shall submit a confidential written evaluation statement for the Court's *in camera* review. The evaluation statement shall be concise and shall:

1. Identify by name or status the person(s) with decision-making authority who, in addition to the attorney, will attend the early neutral evaluation session as representative(s) of the party, and persons connected with a party opponent (including an insurer representative) whose presence might substantially improve the utility of the early neutral evaluation session or the prospects of settlement;
2. Describe briefly the substance of the suit, addressing the party's views on the key liability and damages issues;
3. Address whether there are legal or factual issues whose early resolution would reduce significantly the scope of the dispute or contribute to settlement negotiations;
4. Describe the history and status of settlement negotiations;
5. Include copies of documents, pictures, recordings, and other evidence out of which the suit arose, or whose availability would materially advance the purposes of the evaluation session (*e.g.*, medical reports, documents by which special damages might be determined);
6. Discuss the strongest and weakest points of your case, both factual and legal, including a candid evaluation of the merits of your case;

<sup>2</sup> Early neutral evaluations are closed to the public. Non-parties, including family members, are not permitted to attend.

- 1      7. Estimate the expense (including attorney's fees and costs) of taking this case through trial;
- 2      8. Describe the history of any settlement discussions and detail the demands and offers that have been made and the reason settlement discussions have been unsuccessful;
- 3      9. Certify that the party has made initial disclosures under Fed. R. Civ. P. 26(a)(1) and that the plaintiff has provided a computation of damages to the defendant under Fed. R. Civ. P. 26(a)(1)(A)(iii); and
- 4      10. Provide the initial settlement proposal that will be presented at the early neutral evaluation with a justification for any monetary amount. The proposal must include any non-monetary settlement terms that will be presented.

8 *See Local Rule 16-6(f).*

9      During the course of the ENE session, the undersigned magistrate judge will:

- 10     1. Permit each party (through an attorney or otherwise), orally and through documents or other media, to present its claims or defenses and to describe the principal evidence on which they are based;
- 11     2. Assist the parties to identify areas of agreement and, where feasible, enter stipulations;
- 12     3. Assess the relative strengths and weaknesses of the parties' contentions and evidence, and carefully explain the reasoning that supports them;
- 13     4. When appropriate, assist the parties through private caucusing or otherwise to explore the possibility of settling the case;
- 14     5. Estimate, where feasible, the likelihood of liability and the range of damages;
- 15     6. Assist the parties to devise a plan for expediting discovery, both formal and informal, to enter into meaningful settlement discussions or to position the case for disposition by other means;
- 16     7. Assist the parties to realistically assess litigation costs; and
- 17     8. Determine whether some form of follow-up to the session would contribute to the case-development process or promote settlement.

22 *See Local Rule 16-6(g).*

23      The written evaluation statements shall be submitted, in an envelope marked  
24 "Confidential," **directly to undersigned's box in the Clerk's Office** no later than **3:00 p.m. on**  
25 **February 28, 2019. DO NOT SERVE A COPY ON OPPOSING COUNSEL.**

26      The purpose of the evaluation statement is to assist the undersigned magistrate judge in  
27 preparing for and conducting the ENE session. In order to facilitate a meaningful session, your  
28 utmost candor in providing the requested information is required. **The written evaluation**

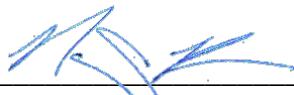
1 statements will not be seen by or shared with the district judge or magistrate judge to whom  
2 this case is assigned. The evaluation statements will be seen by no one except the undersigned  
3 and her staff. Each statement will be securely maintained in my chambers, and will be destroyed  
4 following the session.

5 In addition to the above requirements, the parties and counsel must be substantially  
6 prepared to meaningfully participate in the ENE session in good faith.

7 **FAILURE TO COMPLY WITH THE REQUIREMENTS SET FORTH IN THIS**  
8 **ORDER WILL SUBJECT THE NON-COMPLIANT PARTY AND/OR COUNSEL TO**  
9 **SANCTIONS UNDER FEDERAL RULE OF CIVIL PROCEDURE 16(f).**

10 IT IS SO ORDERED.

11 Dated: January 31, 2019



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13 Nancy J. Koppe  
14 United States Magistrate Judge  
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